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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–ES–2016–N241; FF07CMM00-FXES111607MPB01]

U.S.-Russia Polar Bear Commission; Maintenance of Annual Taking Limit for the Alaska-Chukotka Polar Bear Population

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: On November 18, 2016, the U.S.-Russia Polar Bear Commission (Commission), established under the *Agreement Between the Government of the United States and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population (2000 Agreement)*, unanimously agreed to maintain the annual taking limit adopted in 2010 for the Alaska-Chukotka polar bear population. In 2010, the Commission established an annual taking limit of the number of bears that may be removed from this population as a result of human activities, such as bears taken for subsistence purposes and in defense of human life. This annual taking limit, which corresponds with the annual sustainable harvest level for this population, is 58 polar bears per year, of which no more than one-third will be females. Under the 2000 Agreement, the annual taking limit is to be shared equally between the United States of America and the Russian Federation.

FOR FURTHER INFORMATION CONTACT: Dr. Patrick Lemons, Marine Mammals Management Chief, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503; by telephone

(907) 786–3800; or by facsimile (907) 786–3816. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

The *Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population* (2000 Agreement), signed in 2000 and ratified by the United States in 2007, provides legal protections for the population of polar bears found in the Chukchi and Northern Bering Seas. The 2000 Agreement is implemented in the United States through Title V of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*), and builds upon the protections provided to this population of polar bears through the *Agreement on the Conservation of Polar Bears* (1973 Agreement), which was a significant early step in the international conservation of polar bears. The 1973 Agreement is a multilateral treaty to which the United States and Russia are parties with other polar bear range states—Norway, Canada, and Denmark (on behalf of Greenland). While the 1973 Agreement provides authority for the maintenance of a subsistence harvest of polar bears and provides for habitat conservation, the 2000 Agreement establishes a common legal, scientific, and administrative framework directed specifically for the conservation and management of the Alaska-Chukotka polar bear population.

As a shared population, polar bears within the Alaska-Chukotka population readily move between the United States and Russian Federation. Article 3 of the 2000

Agreement defines the geographic boundaries of the Agreement, which correspond to the areas within the jurisdiction of the United States and Russian Federation in which the joint polar bear population may be found. Under Article 3, the geographic boundaries of the 2000 Agreement are “bounded on the west by a line extending north from the mouth of the Kolyma River; on the east by a line extending north from Point Barrow; and on the south by a line describing the southernmost annual formation of drift ice.” Thus, the 2000 Agreement recognizes the need for a unified, common management regime to provide for the long-term sustainability of this shared population, while assisting in safeguarding the social, cultural, and subsistence needs of Alaska Natives and native people of Chukotka. For example, the 2000 Agreement requires the Commission, the bilateral authority established under the 2000 Agreement, to determine a “sustainable harvest level” that is based upon reliable scientific information, does not exceed net annual recruitment to the population, and maintains the population at or near its current level.

Article 8 of the 2000 Agreement sets forth the composition and responsibilities of the Commission. The Commission includes a U.S. section and Russian section, with each national section comprising two members appointed by their respective parties to provide for the inclusion of a member representing the country’s native people in addition to a Federal representative. Under the 2000 Agreement, each section has one vote, and all decisions of the Commission may be made only with the approval of both sections. Among other duties under Article 8, the Commission must promote cooperation among the parties and the native people, make scientific determinations, establish annual taking limits, and adopt other restrictions on take of polar bears for subsistence purposes

within the framework of the established annual taking limits. Article 8 further requires the establishment of a Scientific Working Group (SWG) to advise the Commission on its decisions.

At its first annual meeting, held in Moscow, Russia, September 23–25, 2009, the Commission identified members of the SWG and tasked the SWG with reviewing the current level of take of polar bears and providing recommendations to the Commission on the sustainable harvest level. Recommendations from the SWG help guide the research necessary to address present and future polar bear conservation issues in the shared Alaska-Chukotka polar bear population.

The second annual meeting of the Commission took place June 7–10, 2010, in Anchorage, Alaska. During this meeting the Commission reviewed the recommendations of the SWG and, consistent with the SWG's recommendation, determined that establishing a limit to the total allowable take, including subsistence harvest, of polar bears from the Alaska-Chukotka polar bear population was needed. Thus, consistent with the 2000 Agreement, the Commission adopted an annual taking limit that corresponds with, but does not exceed, the sustainable harvest level of no more than 58 polar bears per year, of which no more than 19 animals may be females, that may be removed from the Alaska-Chukotka polar bear population. The Commission determined that all forms of human-caused removal of individuals from the Alaska-Chukotka polar bear population will be incorporated in this annual taking limit (75 FR 65507; October 25, 2010). Under Section 502(a)(2) of the MMPA, it is unlawful to take any polar bear from the Alaska-Chukotka population in violation of this annual taking limit adopted by the Commission.

At its third annual meeting, in 2011, the Commission made no change to the take limit established in 2010.

At its fourth annual meeting, held June 25–27, 2012, in Anchorage, Alaska, the Commission adopted a multiyear quota system that would allow the Commission to set a sustainable harvest level for a 5-year timeframe, and within the 5-year cycle, adjust the annual taking limit upward or downward depending on the actual harvest of bears the preceding year. For example, if harvest was above the annual taking limit in one year, which would constitute a violation of the 2000 Agreement and Title V of the MMPA, the annual taking limit could be reduced by the Commission for subsequent years.

Alternatively, if ice conditions or other factors limit hunters' abilities to harvest polar bears in one year, the Commission could increase the annual taking limit in subsequent years, as long as the sustainable harvest level over a 5-year period is not exceeded.

Therefore, in 2012, based on the recommendation of the SWG, the Commission agreed upon a 5-year sustainable harvest level of 290 polar bears (i.e., the annual sustainable harvest level of 58 bears \times 5 years), with no more than one-third being female. Under this multiyear quota system, the 5-year sustainable harvest level would be allocated over a 5-year period and would include the identification of annual sustainable harvest levels for consideration by the Commission in setting annual taking limits. The Commission, at each of its subsequent annual meetings held in 2013, 2014, and 2015, was advised by the SWG that new biological information considered at the meeting did not suggest the need to change the sustainable harvest level established by the Commission. The Commission, therefore, at each of those meetings in 2013, 2014, and 2015 adopted the SWG's recommendation that no change be made to the existing

sustainable harvest level of up to 58 polar bears per year to be shared equally between the United States and Russia, of which no more than one-third will be female.

At the eighth annual meeting of the Commission, held November 17–18, 2016, in Anchorage, Alaska, the SWG recognized that new biological information considered at the meeting did not suggest the need to change the sustainable harvest level established by the Commission and, therefore, it recommended no change to the current annual sustainable harvest level of 58 polar bears per year to be shared equally between the United States and the Russian Federation, of which no more than one-third will be female, or to the multiyear quota system previously adopted by the Commission. The Commission unanimously adopted this recommendation. Additionally, the U.S. Commissioners discussed their collaborative efforts over the past year to lay the foundation for effective implementation of the annual taking limit, and expressed their commitment to continuing that work together to achieve the goal of a sustainably managed polar bear subsistence harvest.

As discussed in the U.S. Fish and Wildlife Service's (Service) recent advance notice of proposed rulemaking (81 FR 78560; November 8, 2016), the Service is currently working with the Alaska Native community to identify a new co-management partner. To allow time for this co-management partner to be identified and to establish a program of locally enforceable ordinances for polar bear harvest, it is appropriate to delay issuance of regulations to administer the annual taking limit, which were originally anticipated to be put into effect on January 1, 2017. The Service believes additional work in establishing local, on-the-ground co-management structures will greatly improve compliance with the annual taking limit.

We now anticipate issuing regulations in 2019, with an anticipated effective date of January 1, 2020. The Service will continue conducting consultation with federally recognized tribes, providing outreach and education to affected communities, and evaluating biological information. During this interim period, the Service will use its enforcement discretion with respect to any take that exceeds the annual taking limit established by the Commission in 2010. Currently, the Service's MMPA implementing regulations at 50 CFR 18.23(f) require Alaskan natives who harvest any polar bears for subsistence purposes or for purposes of selling authentic Native articles of handicrafts and clothing to report such take to the Service and present the skin and skull to Service personnel or the Service's authorized local representative. Under these regulations, an Alaskan native may possess the unmarked, untagged, and unreported polar bear for a period of time not to exceed 30 days from the time of taking for the purpose of transporting the skin and skull to Service personnel or the Service's authorized local representative for marking, tagging, and reporting. These regulations remain in effect.

Determination of the Commission

Pursuant to section 507(b) of the MMPA, we are publishing in the **Federal Register** this notice of the U.S.-Russia Polar Bear Commission's determination concerning the annual taking limit for the Alaska-Chukotka polar bear population. As detailed above, at its 2016 annual meeting, the Commission agreed to maintain the limit on the annual harvest of polar bears from this population to no more than 58 animals, of which no more than one-third may be female, to be shared equally between the United States and the Russian Federation.

Dated: __February 1, 2017__.

__James W. Kurth_____
Acting Director,
U.S. Fish and Wildlife Service.

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